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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

MONICA ECHAVARRIA, individually) Case No.
 and on behalf of all others similarly)
 situated,)

Plaintiff,

vs.

ADIR INTERNATIONAL, LLC,
 Defendant.

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
 OF:**

1. NEGLIGENT VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]
2. WILLFUL VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]
3. VIOLATIONS OF THE
 ROSENTHAL FAIR DEBT
 COLLECTION PRACTICES
 ACT [CAL. CIV. CODE
 §1788 ET SEQ.]

DEMAND FOR JURY TRIAL

1 Plaintiff Monica Echavarria (“Plaintiff”), individually and on behalf of all
2 others similarly situated, alleges the following upon information and belief based
3 upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of Adir International, LLC
8 (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on
9 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
10 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.
11 Ancillary to the claims above, Plaintiff further alleges claims for Defendant’s
12 violations of the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”),
13 which prohibits debt collectors from engaging in abusive, deceptive, and unfair
14 practices

15 **JURISDICTION & VENUE**

16 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
17 a resident of California, seeks relief on behalf of a Class, which will result in at
18 least one class member belonging to a different state than that of Defendant, a
19 company with its principal place of business and State of Incorporation in Utah
20 state. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of
21 the TCPA, which, when aggregated among a proposed class in the thousands,
22 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore,
23 both diversity jurisdiction and the damages threshold under the Class Action
24 Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

25 3. Venue is proper in the United States District Court for the Central
26 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
27 because Defendant does business within the state of California and the Central
28 District of California.

1 **PARTIES**

2 4. Plaintiff, Monica Echavarria (“Plaintiff”), is a natural person residing
3 in Bell Gardens, California and is a “person” as defined by 47 U.S.C. § 153 (10),
4 and is a “debtor” as defined by Cal. Civ. Code §1788.2(h).

5 5. Defendant, Adir International, LLC (“Defendant”), is a business that
6 operates some La Curacao department stores and is a “person” as defined by 47
7 U.S.C. § 153 (10). Further, Defendant was a company engaged, by use of the
8 mails and telephone, in the business of collecting a debt from Plaintiff which
9 qualifies as a “consumer debt,” as defined by Cal. Civ. Code §1788.2(f).
10 Defendant regularly attempts to collect debts alleged to be due to Defendant, and
11 therefore is a “debt collector” as defined by the RFDCPA, Cal. Civ. Code
12 §1788.2(c).

13 **FACTUAL ALLEGATIONS**

14 6. At various and multiple times prior to the filing of the instant
15 Complaint, including within the one year preceding the filing of this Complaint,
16 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

17 7. Beginning in and around February of 2015, Defendant began
18 contacting Plaintiff on her cellular telephone in an attempt to collect an alleged
19 outstanding debt.

20 8. Defendant was calling Plaintiff on her cellular telephone number
21 ending in -5458.

22 9. Defendant called Plaintiff numerous times daily from a private
23 telephone number.

24 10. Defendant also sent Plaintiff unsolicited text messages. On February
25 25, 2015, Defendant sent Plaintiff a text message that read:

26 Curacao: MONICA, special offer for you! 50% off if you pay
27 today. Call immediately 213-739-3650. Reply HELP for help.
28 ///

1 11. On March 27, 2015, Defendant sent Plaintiff another text message
2 that read:

3
4 Curacao: MONICA, we sent a letter informing you of a very serious
5 issue that needs your immediate response, call 213-739-3650. Reply
6 HELP for help.

7 12. Defendant used an “automatic telephone dialing system”, as defined
8 by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the
9 debt allegedly owed.

10 13. Defendant called Plaintiff on her cellular telephone with enough
11 frequency and regularity as to constitute harassment under the circumstance.

12 14. Defendant’s calls constituted calls that were not for emergency
13 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

14 15. Defendant’s calls were placed to telephone number assigned to a
15 cellular telephone service for which Plaintiff incurs a charge for incoming calls
16 pursuant to 47 U.S.C. § 227(b)(1).

17 16. Defendant never received Plaintiff’s “prior express consent” to
18 receive unsolicited text messages or calls using an automatic telephone dialing
19 system or an artificial or prerecorded voice on her cellular telephone pursuant to
20 47 U.S.C. § 227(b)(1)(A).

21 17. § 1788.17 of the RFDCPA mandates that every debt collector
22 collecting or attempting to collect a consumer debt shall comply with the
23 provisions of Sections 1692b to 1692j, inclusive of, and shall be subject to the
24 remedies in Section 1692k or, Title 15 of the United States Code statutory
25 regulations contained within the federal Fair Debt Collection Practices Act
26 (“FDCPA”), 15 U.S.C. § 1692d, and § 1692d(5).

27 18. Defendant’s conduct violated the RFDCPA in multiple ways,
28 including but not limited to:

- a) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal Civ Code § 1788.11(d));
- b) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code § 1788.11(e));
- c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1)) ;and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§ 1692d)).

19. Defendant's conduct violated the TCPA by:

- a) using any automatic telephone dialing system or an artificial or pre-recorded voice to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call (47 USC §227(b)(A)(iii)).

20. As a result of the above violations of the RFDCPA and TCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal

1 humiliation, embarrassment, mental anguish and emotional distress, and
2 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
3 and costs and attorney's fees.
4

5 **CLASS ALLEGATIONS**

6 21. Plaintiff brings this action individually and on behalf of all others
7 similarly situated, as a member of the proposed class (hereafter "The Class")
8 defined as follows:
9

10 All persons within the United States who received any
11 collection telephone calls from Defendant to said
12 person's cellular telephone made through the use of any
13 automatic telephone dialing system or an artificial or
14 prerecorded voice or unsolicited text messages and such
15 person had not previously consented to receiving such
16 calls within the four years prior to the filing of this
17 Complaint

18 22. Plaintiff represents, and is a member of, The Class, consisting of All
19 persons within the United States who received any collection telephone calls from
20 Defendant to said person's cellular telephone made through the use of any
21 automatic telephone dialing system or an artificial or prerecorded voice or
22 unsolicited text messages and such person had not previously not provided their
23 cellular telephone number to Defendant within the four years prior to the filing of
24 this Complaint.

25 23. Defendant, its employees, and agents are excluded from The Class.
26 Plaintiff does not know the number of members in The Class, but believes the
27 Class members number in the thousands, if not more. Thus, this matter should be
28 certified as a Class Action to assist in the expeditious litigation of the matter.

24. The Class is so numerous that the individual joinder of all of its
members is impractical. While the exact number and identities of The Class

1 members are unknown to Plaintiff at this time and can only be ascertained
2 through appropriate discovery, Plaintiff is informed and believes and thereon
3 alleges that The Class includes thousands of members. Plaintiff alleges that The
4 Class members may be ascertained by the records maintained by Defendant.

5 25. Plaintiff and members of The Class were harmed by the acts of
6 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
7 and Class members via their cellular telephones thereby causing Plaintiff and
8 Class members to incur certain charges or reduced telephone time for which
9 Plaintiff and Class members had previously paid by having to retrieve or
10 administer messages left by Defendant during those illegal calls, and invading the
11 privacy of said Plaintiff and Class members.

12 26. Common questions of fact and law exist as to all members of The
13 Class which predominate over any questions affecting only individual members
14 of The Class. These common legal and factual questions, which do not vary
15 between Class members, and which may be determined without reference to the
16 individual circumstances of any Class members, include, but are not limited to,
17 the following:

- 18 a. Whether, within the four years prior to the filing of this
19 Complaint, Defendant made any collection call (other than a
20 call made for emergency purposes or made with the prior
21 express consent of the called party) to a Class member using
22 any automatic telephone dialing system or any artificial or
23 prerecorded voice or sent any unsolicited text message to any
24 telephone number assigned to a cellular telephone service;
- 25 b. Whether Plaintiff and the Class members were damaged
26 thereby, and the extent of damages for such violation; and
- 27 c. Whether Defendant should be enjoined from engaging in such
28 conduct in the future.

1 27. As a person that received numerous collection calls and unsolicited
2 text messages from Defendant using an automatic telephone dialing system or an
3 artificial or prerecorded voice, without Plaintiff's prior express consent, Plaintiff
4 is asserting claims that are typical of The Class.

5 28. Plaintiff will fairly and adequately protect the interests of the
6 members of The Class. Plaintiff has retained attorneys experienced in the
7 prosecution of class actions.

8 29. A class action is superior to other available methods of fair and
9 efficient adjudication of this controversy, since individual litigation of the claims
10 of all Class members is impracticable. Even if every Class member could afford
11 individual litigation, the court system could not. It would be unduly burdensome
12 to the courts in which individual litigation of numerous issues would proceed.
13 Individualized litigation would also present the potential for varying, inconsistent,
14 or contradictory judgments and would magnify the delay and expense to all
15 parties and to the court system resulting from multiple trials of the same complex
16 factual issues. By contrast, the conduct of this action as a class action presents
17 fewer management difficulties, conserves the resources of the parties and of the
18 court system, and protects the rights of each Class member.

19 30. The prosecution of separate actions by individual Class members
20 would create a risk of adjudications with respect to them that would, as a practical
21 matter, be dispositive of the interests of the other Class members not parties to
22 such adjudications or that would substantially impair or impede the ability of such
23 non-party Class members to protect their interests.

24 31. Defendant has acted or refused to act in respects generally applicable
25 to The Class, thereby making appropriate final and injunctive relief with regard to
26 the members of the California Class as a whole.

27 ///

28 ///

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

32. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-26.

33. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

34. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

35. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

36. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-30.

37. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

38. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

1 39. Plaintiff and the Class members are also entitled to and seek
2 injunctive relief prohibiting such conduct in the future.

3
4 **THIRD CAUSE OF ACTION**

5 **Violations of the Rosenthal Fair Debt Collection Practices Act**

6 **Cal. Civ. Code § 1788 et seq.**

7 40. Plaintiff repeats and reincorporates by reference into this cause of
8 action allegations set forth above at paragraphs 1-37.

9 41. To the extent that Defendant's actions, counted above, violated the
10 RFDCPA, those actions were done knowingly and willfully.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

14 **FIRST CAUSE OF ACTION**

15 **Negligent Violations of the Telephone Consumer Protection Act**

16 **47 U.S.C. §227 et seq.**

- 17
- 18 • As a result of Defendant's negligent violations of *47 U.S.C.*
19 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
20 request \$500 in statutory damages, for each and every violation,
21 pursuant to *47 U.S.C. 227(b)(3)(B)*.
 - 22 • Any and all other relief that the Court deems just and proper.
- 23

24 **SECOND CAUSE OF ACTION**

25 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
26 **Act**

27 **47 U.S.C. §227 et seq.**

- 28 • As a result of Defendant's willful and/or knowing violations of *47*

1 *U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to
2 and request treble damages, as provided by statute, up to \$1,500, for
3 each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and
4 *47 U.S.C. §227(b)(3)(C)*.

- 5 • Any and all other relief that the Court deems just and proper.

6
7 **THIRD CAUSE OF ACTION**

8 **Violations of the Rosenthal Fair Debt Collection Practices Act**

9 **Cal. Civ. Code § 1788 et seq.**

10
11 WHEREFORE, Plaintiff respectfully prays that judgment be entered against
12 Defendant for the following:

- 13
14 A. Actual damages;
15 B. Statutory damages for willful and negligent violations;
16 C. Costs and reasonable attorney's fees,
17 D. For such other and further relief as may be just and proper.

18
19 Respectfully Submitted this 17th day of August, 2015.

20
21 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

22
23 By: /s/ Todd M. Friedman
24 Todd M. Friedman
25 Law Offices of Todd M. Friedman
26 Attorney for Plaintiff
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